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[REDACTED]

JUN 24 1985

**CERTIFIED MAIL**

Dear Sir or Madam:

We have considered your application for recognition of exemption under Section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the laws of the state of [REDACTED] on [REDACTED]. The purposes for which you were formed are to make and collect assessments against members as unit owners to defray the costs, expenses and losses of the condominiums; to take care of maintenance, repair, replacement and operation of the condominiums property; purchase insurance for the condominium property and insurance for the protection of the Association and its members as unit owners. You also have the authority to accomplish reconstruction of improvements after casualty and the further improvement of the property; to make and amend reasonable regulations respecting the use of the property in the condominium and to employ personnel to perform the services required for proper operation of the condominium. Also, all funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held for the benefit of the members of the Association.

Your income is derived from monthly condominium fees. Expenditures are primarily for accounting and legal fees, maintenance, electricity for common areas, miscellaneous repairs and a master insurance policy.

Your membership consists of all of the record owners of units in the condominiums.

Section 501(c)(4) of the Internal Revenue Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

CODE	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
		[REDACTED]	[REDACTED]				
SUR NAME		[REDACTED]	[REDACTED]				

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this Section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, 1974-1 C.B., page 130, provides that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project, does not qualify for exemption under Section 501(c)(4) of the Code. Condominium ownership necessarily involves ownership in common by all unit owners of the common areas, the maintenance and care of which constitutes the provision of private benefits for the unit owners. Since the organization's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare.

It has been held that where the primary economic benefit from an organization is limited to that organization's members, the organization is not operated exclusively for social welfare within the meaning of the statute. Consumer Farmer Milk Coop. v. Commissioner 186 F. 2d 68 (CA2; 1950), aff'ing 13 F.2d 1950 (1949). New York State Association of Real Estate Sales Group Inc. v. Fero, 30 F. 2d 1315, 1337 (1970).

In Commissioner v. Lake Forest, Inc. 305 F. 2d 814 (1962), the Court held that an organization was not organized exclusively for the promotion of social welfare when its activities partake largely of the nature of an economic and private cooperative undertaking. The Court also stated that an organization seeking tax exemption under Section 501(c)(4) must fit itself within the terms of the statute granting exemption to claim the benefit it accrues. The Court then explained that an organization's activities, while available to all citizens eligible for membership, were not benefits public in nature. Nor were they bestowed on the community as such.

Condominium type ownership by its very nature necessarily entails ownership in common of all unit owners of common areas or elements supportive to the individual units. Thus, any maintenance or care of such common areas or elements constitutes private benefit to the individual homeowner members as opposed to promoting the common good and general welfare of the people of the community.

[REDACTED]

It is held that the direct economic benefit from your activities is for the benefit of your members as individuals and not for the direct benefit of the community as a whole. Accordingly, you are not primarily engaged in promoting the common good and general welfare of the people of the community. Therefore, we conclude that you do not qualify for recognition of exemption under Section 501(c)(4) or any other related section under Section 501(c) of the Internal Revenue Code of 1954.

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to Section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. This section of the Code was included in the Tax Reform Act of 1976. If you determine that you qualify under Section 528, you must file Form 1120H. If you determine that you do not qualify under Section 528, you must file corporate tax return Form 1120.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 92. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or if you request, at any mutually convenient District office. We will attempt to meet with you within 30 days of the date of this letter, but a determination will become final.

Sincerely yours,

[REDACTED]  
District Director

Enclosure  
Publication 992